

# THE MARTHA'S VINEYARD COMMISSION

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## *Martha's Vineyard Commission Minutes of the Special Meeting of September 9, 1999*

The Martha's Vineyard Commission held a Special Meeting on Thursday, September 9, 1999, at 7:30 p.m. at Commission Offices in the Olde Stone Building, New York Avenue, Oak Bluffs, Mass.

At 7:38 p.m., a quorum being present, Richard J. Toole, Chairman of the Commission and the Selectmen's Appointee from Oak Bluffs, opened the Special Meeting.

Mr. Toole acted as the Hearing Officer for the evening. He announced that the first Agenda item was a 7:30 Concurrence Hearing on a proposal for two portable boat storage racks at Maciel Marine referred by the Tisbury Conservation Commission.

There appeared to be no one from the referring Board in the Meeting Room. Pia Webster, the Commission Secretary, noted that she had spoken that afternoon with the assistant to the Conservation Commission, who had assured her that someone from the Board would be present.

Mr. Toole suggested that the Commission move on to the second Concurrence Hearing. However, it was not yet the posted time (7:45 p.m.) for that Hearing. Regarding a Point of Order, Linda Sibley, a Commission member at large from West Tisbury, wondered why the Maciel Marine proposal had not come in as a Modification of Conditions of an earlier Development of Regional Impact (DRI) Decision pertaining to the site, instead of as a brand-new DRI. Mr. Toole indicated that the referral had come to the Commission in a particular way and, therefore, it required a concurrence vote.

The Hearing Officer then proposed that all discussion on the referral be postponed until John Best, a Commission member at large from Tisbury as well as a member of that Town's Conservation Commission, arrived at the Meeting. He moved on the Item #4, Reports.

#### **Item #4, Reports.**

Delivering the **Chairman's Report**, Mr. Toole went over the details of the letter that had been composed by Charles Clifford, Executive Director of the Commission, in response to a proposal to allow parties with alcoholic beverages at the Windfarm Golf Practice Facility. *[A copy of that letter can be found in DRI File #232M as well as in the Meeting File of September 9, 1999.]* The Commission had concluded that the Written Decision for this DRI did not include such activities on the site.

#### **Discussion: Herring Creek Applicant's Scheduled Appearance Before the LUPC.**

Continuing with the Chairman's Report, Mr. Toole announced that the Meeting House Golf Club II proposal (DRI #509) had been referred to the Commission, although plans by the Applicant to appear before the Land Use Planning Committee had been put on hold. Therefore, the only proposal on the Agenda for the LUPC meeting of September 13 would be the Herring Creek Farm III DRI.

Mr. Colaneri wanted to know why the Herring Creek Applicant would be before the committee in the midst of the Public Hearing process. "They want to come back in and bounce some stuff off us," observed Michael Donaroma, the Selectmen's Appointee from Edgartown and the Chairman of the LUPC. Christina Brown, a Commission member at large from Edgartown and Co-Chair of the LUPC, confirmed this.

A discussion followed about whether or not the Applicant should be allowed to appear before the committee while the Public Hearing process was still active. Lenny Jason, Jr., the representative from the County Commission, thought that if the Applicant had anything to say, he should do so before the entire body, not before such a committee. "Land Use Planning should act once the Hearing is closed," he said. "That's my personal opinion."

Ms. Sibley noted that they had allowed this Applicant to appear before the LUPC during the Hearing process before. However, in that case, the Commission members had specifically requested some studies. "It was not a good idea," she observed. "It ended up being very repetitive, and sometimes the members of LUPC got to hear things which then didn't get presented to the full Commission because they [the Applicant] felt they'd already done it."

"Why did they ask to come back?" asked Ms. Brown. "I find it very unusual and somewhat disconcerting to have them ask us to meet in an informal group and then continue with the Public Hearing." "To try something out on us," responded Jane A. Greene, the Selectmen's Appointee from Chilmark.

Mr. Donaroma said that Stuart Johnson, trustee of the Herring Creek Farm Trust, had told him that he wished to come to LUPC to "just sort of bounce by" a few of the questions that had come up during the first session of the Hearing on July 29. "That just sounded kind of routine to me," he said. "I always thought Land Use prepared them for Public Hearing." Ms. Greene pointed out that the Applicant had declared themselves ready for Public Hearing. But this is Step 2 of the Public Hearing, said Mr. Donaroma. *[The second session of the Hearing was scheduled for September 16.]* "I don't see the big deal," he added.

Robert Zeltzer, a Commission member at large from Chilmark, noted, "A developer, regardless of who that developer is, has certain goals and has a bottom line they're trying to reach. Our job isn't to help them reach their bottom line. And our job isn't to change direction in midstream so they can turn around later and say, 'Well, we went this way because you guys told us to, and now you're changing it.' I think we're walking on very shaky ground when we run a whole bunch of meetings that are not Public Hearings for people who have goals ... we don't even know what they [their goals] are yet."

Ms. Sibley noted that exactly what Mr. Zeltzer was describing had happened with this Applicant the last time. She said that if they came to LUPC, the committee had to be extremely disciplined and talk about process with the Applicant and not content.

Mr. Jason suggested that they focus on the process, and the process had always been Land Use Planning getting the Applicant ready for Public Hearing, the Public Hearing occurred, the Public Hearing closed, and then Land Use Planning met once more on the proposal, notifying the Applicant that they were doing so. "So don't get away from process," he said. The discussion continued.

Mr. Colaneri made a Motion that it be made clear to the Applicant that the planned appearance before the committee would be strictly to deal with process. There was no second. Ms. Green then made a Motion that the LUPC simply not meet the following Monday; this Motion was seconded by Mr. Colaneri. A brief discussion followed. It was decided to send the Applicant a letter which stated clearly that the Commission intended to follow the usual process, as outlined by Mr. Jason.

Ms. Greene amended her Motion to state that the Applicant be notified of this by fax, since a letter would not be received in time. Discussion of the issue started up once more.

Ms. Greene wanted to know if MVC Staff had spoken to the Applicant and whether the Staff knew if there were changes in the Application. David Wessling, the Staff member who facilitates the DRI process, replied that the Applicant wanted to address two things at LUPC: 1) a full discussion of the RUCK system; and 2) a closer look at the new nutrient loading calculations that they had been working with. Several Commission members said

at the same time, "Public Hearing," indicating that they believed such a discussion should take place only within the framework of the Continued Public Hearing.

*[Mr. Best arrived at the Meeting around 7:54 p.m.]*

The vote on Ms. Greene's Motion went as follows:

AYES: C. Brown; M. Cini; M. Colaneri; J. Early; J. Greene; T. Israel; J. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse; R. Zeltzer; and T. Henson, Jr.

NAYS: M. Donaroma.

ABSTAINING: J. Best.

**Concurrence Hearing: Douglas Dias Mobile Vending Truck, Town of Tisbury.**

*[Mr. Zeltzer left the room for this Hearing.]*

The time was 7:56 p.m. The Hearing Officer for this Hearing was Mr. Toole. The proposal had been referred by the Tisbury Planning Board. The Applicant was Douglas Dias, who wished to operate a mobile vending truck (selling hot dogs, snack food and bottled water) from property that abuts the Tisbury Marketplace.

**Peter Cronig, Chairman of the Planning Board**, explained that the Applicant had come before his Board nine days earlier. The Board had subsequently sent the proposal up to the Commission because of increase of intensity of use on the property; because it was a food establishment outside the B-1 Business Zone; and because there was no curb cut into the property. Moreover, the area where it was to be located would soon be designated a District of Critical Planning Concern (DCPC) and an establishment across the street was also be reviewed by the Commission. "So the whole area concerns me. Not that this operation is going to be a regional mess," noted Mr. Cronig, "but it's in there, it's on the Checklist, so we wanted to bring it forward."

Mr. Toole asked where exactly the truck would be. Almost across from the corner service station, on the Lagoon side, next to Sodapops, replied Mr. Cronig. "But where? In one of the parking spaces?" asked Mr. Colaneri. Mr. Wessling, the Staff member who had spoken earlier, went to a site plan that was posted in the meeting room and showed the Commission members where exactly the mobile vending truck would be located. It was not the car rental lot, but the area next door that currently had a fence around it.

"How much of that property is he actually going to use?" asked Mr. Toole. Mr. Cronig indicated that it would just be the van and then if people walked there or drove there,

space would be used for that. It was not clear to Mr. Cronig whether or not the owner of the lot would allow cars to pull onto the site to park and eat. He added that his Board had concerns about there not being a curb cut as well as about the traffic in the area.

Mr. Toole asked if the truck was the same one that had been in front of SBS on State Road. Yes, replied **Douglas Dias, the operator of the mobile vending truck**, who was in the audience. A discussion followed regarding the other current uses on the Beach Road property.

Mr. Colaneri wanted to know how the Applicant would get to the site if there was no curb cut. "I don't know," said Mr. Cronig, "I think they need a curb cut there." "And who owns this lot?" asked Mr. Colaneri. "James Nelson is one of the partners," answered Mr. Dias. He added that the curb cut had been applied for. "The State was in there a year ago," he said.

"Peter [Cronig], what kind of Application is before you?" wondered Mr. Best. "A permit for food service," responded Mr. Cronig. "What kind of purview do you have over that?" asked Mr. Best. "Special Permit in the Commercial Management Area," replied Mr. Cronig. "So you will, in fact, be looking at the curb cut, the parking considerations, the traffic flow, things of that nature?" asked Mr. Best. "We've held our first Public Hearing. We then sent it here," said Mr. Cronig. Mr. Best clarified that the project had been sent under Checklist item 3.109h (food establishment outside the B-1 Zoning District).

"Do you have concerns that there may be ... concerns with this property that you can't handle within the Special Permitting process?" asked Ms. Sibley. "I think we can handle it," replied Mr. Cronig. He explained that it was the area of operation that had concerned his Board. "Could you say 'No' if you felt it was a traffic hazard, for example?" wondered Ms. Sibley. Sure, answered Mr. Cronig. Tristan Israel, the Selectmen's Appointee from Tisbury, clarified with Mr. Cronig that there was a process on the Town level in place to handle the Board's concerns.

Mr. Donaroma wanted assurance from Mr. Cronig that the Planning Board did not believe it needed the Commission's help with processing the Application. "If there was a full-fledged 50-seat restaurant, I would have major concerns," said Mr. Cronig. "We may have problems with traffic going there. ... We wanted to bring it to your attention."

"Do we have any choice [whether or not to concur], if it's on the Checklist?" asked Marcia Cini, a Commission member at large from Tisbury. Yes, replied several Commission members at the same time. There ensued a brief discussion about the possible regional impact of the proposal.

Michele Lazerow, a Commission member at large from Oak Bluffs, wanted to know if having a food service of some kind, even if it was mobile, set a precedent for that area.

Ms. Sibley pointed out that there was a food establishment next door. And across the street, added Ms. Brown.

Mr. Toole asked if any Commission members had questions for the Applicant. Megan Ottens-Sargent, the Selectmen's Appointee from Aquinnah, wanted to know if there would be any parking spaces on the site. "No, not on the property," answered Mr. Dias. The site was owned by James Nelson, he said, who used the parking spaces there for the car rental agency's drop-offs. Moreover, the curb was only about 2 inches high, and the people at Hale's [Martha's Vineyard Boatyard] had always managed to get over it. The site had earlier been used for boat storage, Mr. Dias explained, and it had been purchased by Mr. Nelson within the past year.

Mr. Dias then described the unit itself: it was mobile and completely self-contained with no water and no storage. He would be dealing with a pre-packaged, pre-cooked product. Mr. Dias then offered copies of some licenses for the same unit that had already been issued, as well as photographs of the unit. He added that he wanted to take care of some of the working people who could not afford to go out to lunch and did not have 45 minutes to spend on lunch. Mr. Dias concluded that, with his physical condition, "it seems to work for me. ... I'm just trying to do the right thing and follow the process."

Ms. Sibley asked if this would be a new unit or if he would be moving the unit already at SBS. He would be moving that unit, replied Mr. Dias. How long had it been at SBS? wondered Ms. Sibley. "Eight weeks this week," said Mr. Dias. Ms. Sibley wanted to know why he wanted to move the unit. Mr. Dias explained that it had been a "break-even situation" at SBS; it was a low-markup product; and there was not the traffic flow that there had been earlier, before Labor Day. Moreover, he thought that more of the businesses that had employees who did not eat in restaurants were downtown.

Ms. Sibley said she assumed that most of his customers would drive to his vending truck. "Not necessarily," said Mr. Dias. He noted that people from the Black Dog Cafe, Island Tire and Eden nursery [nearby businesses] had been eating there during its stay in front of SBS. Ms. Sibley said that the only concern she had was that there would not be parking. Her impression was that many of Mr. Dias's customers would be driving to the site. Mr. Dias responded that it was possible that he could work something out with the owner, Mr. Nelson, so his customers could use some of the parking spaces on the site.

Mr. Jason commended the Planning Board for referring the project. "But I really think they're capable of dealing with this," he said. Mr. Jason moved that the project not be a DRI, duly seconded. The time was 8:09 p.m. The vote on the Motion went as follows:

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma; J. Early; J. Greene; T. Israel; J. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse; R. Zeltzer; and T. Henson, Jr.

NAYS: None.

ABSTAINING: R. Zeltzer.

*[After the vote, Mr. Zeltzer returned to the room.]*

**Concurrence Hearing: Maciel Marine Mobile Boat Storage Racks, Town of Tisbury.**

Next on the Agenda was a Concurrence Hearing for a project in Tisbury involving new mobile boat storage racks at Maciel Marine. The Applicant was Geoffrey Banfield, and the referring Board had been the Tisbury Conservation Commission (ConCom).

Since **John Best**, who was a member of the **Tisbury ConCom**, was now present, Ms. Sibley raised again the issue she had brought up earlier in the Meeting, before his arrival. *[See page 1 of these Minutes.]* She believed that the project should be treated as an Application for a Modification of a previous Decision. Mr. Best responded that the site was a DRI and that the storage rack project was a proposal on the site that had gotten referred over to the Commission. He did not think it mattered whether it was a new DRI or a Modification of an earlier Decision.

Mr. Best also pointed out that his Board had been given very little information on the proposal. They had been given a height and been told it was a double rack, but they did not know, for instance, how many boats it would be holding. That said, the ConCom did not really have much say over the number of boats being launched onto the lagoon; it was concerned with disturbances on the ground, not with boating activities *per se*. He believed that the Applicant would need a permit from the Building Inspector, although he was not sure.

Mr. Best concluded that probably the most important concern was the impact of additional marine activities at that end of the lagoon. There followed a brief discussion of the purview of the Conservation Commission.

Mr. Israel suggested that the Martha's Vineyard Commission hear from **the Applicant, Geoffrey Banfield**. Mr. Banfield rose from his seat and explained that the first thing he had done was go to the Building Inspector, to whom he had given "a raft of information," including plans drawn by engineer Glenn Provost. The Building Inspector had then issued Mr. Banfield a building permit. The Inspector had also informed him that the rack was not a structure, but a piece of equipment.

Mr. Banfield showed the Commission members an old photograph of the marina and explained how Maciel Marine currently rented some space behind the Tisbury Marketplace, which space he pointed to in the picture. He had a year and a half left on the

lease and had been informed that the chances of his renewing the lease were not very good. In fact, Gannon & Benjamin had already taken over more than one-third of that space.

Mr. Banfield then pointed to what he described as "John Holmes's building," which they had removed "at somebody's request." So what they planned to do was to build the boat rack right there, where the building had been. He then showed the Commission members a picture of the type of rack he intended to put there. He noted that all these materials had been given to the Building Inspector and he had assumed that they had been forwarded to the Conservation Commission.

Mr. Banfield then described the storage racks: 20 feet wide and 18 or 20 feet high, carrying four boats, stacked up next to each other. How many? asked Ms. Greene. A total of forty boats, replied Mr. Banfield. He then pointed out that there would be no more boats at the marina than there already were; the racks would simply hold boats that had been on the property that he would no longer be able to lease. Moreover, the boats would be "dry-stored," that is, they would not go in the water and there would be no bottom paint on the boats. So there would be no pollution from bottom paint.

He then described the operation. The boat owner storing a boat on a rack would call the service, which would pick it up with a forklift, put it in the water, and then put it back on the rack when the owner wanted it out of the water. The reason it would be located in that particular spot was because of the position of the launching ramp and the amount of room needed to back up the forklift.

Mr. Best commented that this presentation was "much more elaborate" than what the Conservation Commission had seen. He then noted that when the first rack on the site had gone in, it had not been long before a concrete apron was requested. The reason given was that the forklift could not operate without concrete underfoot. There was no request in this Application for such an apron, noted Mr. Best. Would that be necessary? he wondered. "No," replied Mr. Banfield, "from what I understand according to Ken Barwick, there is already a permit that he'll issue to put concrete in there. I don't have any plans to do that right now."

Mr. Best clarified the issue of the rented property and the loss of storage space. "And you're saying this is not going to increase the number of boats you have in storage?" asked Mr. Best. "That is correct," replied Mr. Banfield. "And it's not going to increase the number of boats you deal with?" asked Mr. Best. "No," said Mr. Banfield, "this is not an effort to get more space so we can get more boats."

"Are you looking at winter-storage-type things here?" asked Ms. Greene. "Yes," responded Mr. Banfield. Mr. Colaneri clarified with Mr. Banfield that 40 boats would be stored on the racks. "Where are those 40 boats now?" asked Mr. Colaneri. Mr. Banfield



explained that in the summertime the boats were in Edgartown, in Menemsha and so forth; they would return to Maciel Marine for storage after the warm season.

Ms. Sibley wanted to know if Mr. Banfield was aware of the previous Commission Decision pertaining to this property. No, replied Mr. Banfield. Has MVC Staff looked at the previous Decision? she asked. No, said Mr. Wessling, who then left the room to obtain a copy of that Decision. The time was 8:21 p.m.

Ms. Sibley thought that looking at the previous Decision was critical to the current decision-making process. "How many racks did we approve?" she wondered. "Because if this is not permitted under the original Decision, then at a bare minimum this Board has to look at it as a Change of Condition." A brief discussion followed about the earlier Decision while the members waited for the copy of the Decision.

Mr. Zeltzer wanted to know if the two-tier rack was expandable to a three-tier one. No, said Mr. Banfield. Ms. Ottens-Sargent repeated Mr. Colaneri's question about where the 40 boats were at present. Mr. Banfield went over the details of the boat storage plan once more.

Mr. Israel pointed out that if the Applicant was not going to increase the number of boats stored, and if ecologically this type of storage was "more friendly," he did not see "the big deal" and thought the Commission should "go ahead and concur not to concur."

Having looked at the earlier Decision, Ms. Sibley noted that the members were going to have to look at the DRI File so they could see the layout.

Mr. Best then provided some of the history of the Holmes building and why it had been removed. He then pointed out that the new rack was designed to provide storage for boats used on a daily basis. "Space is being used for that right now," explained Mr. Banfield. And before, there was only one layer, and now there would be two? asked Mr. Best. Right, replied Mr. Banfield. Mr. Best wondered if, in fact, there would be increased traffic on the site if the boats on the rack were being removed and then re-stored on a daily basis. He also was curious as to the effect this increased traffic into and out of the lagoon would have on the shellfish beds.

That was the bottom line, Mr. Best continued. "If there's no net increase or a modest net increase, it's not a critical issue," he said. "But the boatyard has grown, and the number of boats being stored down there has changed quite a bit."

Mr. Toole was confused. "Is there going to be an increased number of boats going in and out of Maciel Marine?" he asked. "Number of total units? No," replied Mr. Banfield. Mr. Colaneri was having trouble understanding that as well. Mr. Banfield explained once more that the boatyard was seasonal and that during the current summer season the 40 boats

that would be stored on the racks during the winter season were in the water. The rack service was like "valet parking for the boats," he said. "There's a certain number of boats which we have right now. We put them in the water. We take them out. This is just making it a lot easier for us to do. ... I may grow 10 percent ... but I don't anticipate any more boats on the property in that summer season than there are right now."

"So you're going to expand your dockage facility at that site by 40 boats?" asked Mr. Colaneri. No, replied Mr. Banfield, "I don't have 40 new boats." Further discussion of this point ensued.

"Did this come before LUPC?" asked Mr. Sibley. No, responded two or three Commission members at once. Mr. Sibley thought that usually even Concurrences came before the Land Use Planning Committee. "I don't feel the least bit prepared to determine this," she said. "I don't know what our previous Decisions were, and frankly, sir, you really should go read it. When there's a Decision of the Martha's Vineyard Commission with regard to a piece of property, that dictates what's permitted on that property. And you should be aware of any encumbrances that are on your property."

"I'm sorry," said Mr. Banfield, "I did what I was supposed to do. I went and got a building permit." He then outlined the process he had gone through to arrive at the Hearing that evening. "I thought I did everything right," he added. Ms. Sibley then made it clear that she was not insinuating Mr. Banfield had done anything wrong.

Mr. Jason asked if Maciel Marine was part of the Marine District and if there was any sort of permit that was required from the Planning Board. **Peter Cronig of the Planning Board** answered that it was a permitted use; otherwise it would have been referred by the Building Inspector to the Planning Board.

Mr. Jason then said, "It doesn't sound to me from what I've heard he's increased the amount of boats that he's taking care of. It seems to me it's organized. I don't think it's an expansion, and I don't think we should make this a DRI." "Is that a Motion?" asked Ms. Greene. "No, that's just how I feel," replied Mr. Jason.

Mr. Israel reminded the Commission members that the Building and Zoning Inspector had determined that the racks would not be a structure, but equipment. Moreover, the Applicant did not intend to increase the traffic on or near the site, and the racks would provide a more organized way to store the boats. Mr. Israel then made a Motion Not to Concur, duly seconded.

There followed a discussion of whether or not the Applicant's capacity to store boats would be increased. Mr. Colaneri wanted assurances from the Applicant that he would look at providing parking for his customers. He also spoke of the fact that the boatyard had always been "one big mess," and although he commended the Applicant for

attempting to organize the property better, he thought it would take more than the boat rack to do that.

The members then discussed whether or not a change in use on the site was involved. Ms. Ottens-Sargent echoed Ms. Sibley's earlier sentiments, saying that she thought that the Commission should look at the original Decision regarding the property.

Ms. Sibley noted that when she had been Chair of LUPC and later Chair of the Commission, the Executive Director had told her that "Once a DRI, always a DRI" applied to a situation where there had been a denial or where there was a substantially new project on the property; it did not apply to a change to an approved plan. "I'm perfectly comfortable voting that this doesn't rise to the level of being a new DRI. But it still seems to me entirely possible from the quick look-through that I've been able to give this [the original Decision], that this is a sufficiently significant change to what was approved." She concluded with her view that this project should perhaps be looked at as a Modification of an earlier DRI Decision.

"A boatyard stores boats," said Mr. Jason. "The man is now going to take them from the ground from wherever he's got them and put them in a rack. That's not a change in the proposal." Ms. Ottens-Sargent pointed out that it would be a change if the rental property had not been part of the original proposal. A number of Commission members voiced disagreement with that.

Mr. Israel suggested that perhaps the Commission had not done its homework before making the original Decision. Having said that, Mr. Israel continued, this was "making a mountain out of a mole hill."

Mr. Toole asked Mr. Wessling if Mr. Clifford had expressed any opinion on the proposal. Mr. Wessling answered that he had not.

Ms. Lazerow said, "It just seems to me an increase in intensity. When you have double tiers, you have twice as much ... storage area. And I just think it's something to consider."

Mr. Best said that it was a good idea to organize the site better. However, he worried that the Applicant might continue to pile on tier after tier, until there were 100, 200, 300 boats on the site. It was a well-known problem on the Island that mooring and dock space were expensive and hard to come by. He felt that with such a demand there was the potential for a fairly significant amount of boat traffic in the west basin of the lagoon, which was "a sorry place to put a boatyard to begin with."

Mr. Donaroma observed, "I think it's a boatyard doing boatyard business. If he wants to put [up] another rack, they going to send it back here." More discussion concerning the question of whether or not the Applicant was expanding ensued. "He is not expanding,"

said Mr. Jason. "What John [Best] wants to regulate, we can't regulate unless we're going to keep someone there with a counter every time a boat gets launched and then comes back."

The time was 8:45 p.m. Mr. Toole conducted a roll call vote on Mr. Israel's Motion. The vote went as follows:

AYES: C. Brown; M. Cini; M. Colaneri; M. Donaroma; J. Early;  
J. Greene; T. Israel; L. Jason, Jr.; R. Toole;  
J. Vercruysse; R. Zeltzer; and T. Henson, Jr.

NAYS: J. Best; M. Lazerow; M. Ottens-Sargent; and L. Sibley.

ABSTAINING: None.

### **Item #3, Approval of Minutes.**

Mr. Jason made a Motion to Approve the **Meeting Minutes of August 5, 1999**, duly seconded. No revisions to the Minutes were proposed. The vote on the Motion to Approve went as follows:

AYES: J. Best; C. Brown; M. Colaneri; M. Donaroma; J. Early; T.  
Israel; L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent;  
L. Sibley; R. Toole; J. Vercruysse; and R. Zeltzer.

NAYS: None.

ABSTAINING: M. Cini; J. Greene; and T. Henson, Jr.

There were no Commission member comments or revisions for the **Meeting Minutes of August 12, 1999**. [Mr. Jason had earlier suggested in writing a number of revisions. On page 5, paragraph 1, sentence 3, insert the word "and" between "stone," and "that", so the sentence would read, "Mr. Jason suggested that Mr. Israel simply 'tell the truth,' that the numbers were not cut in stone, *and* that the Commission was continuing to work on it." On page 8, paragraph 5, sentence 1, substitute the word "the" for the first appearance of the word "to" so the sentence would read, "Mr. Colaneri also believed that the letter signers should have had *the* courtesy to come to the Commission to speak to the members, 'to make some attempt to talk to the Staff before they put out such a far-reaching letter with such far-reaching demands.'"]

[Mr. Jason also suggested that on page 9, paragraph 1, sentence 8, the word "going" be substituted for "doing" so the sentence would read, "But if we do, we're *going* to have to deal with it." On page 9, paragraph 2, sentence 2, substitute the word "the" for the word

"to" so the sentence would read, "They tell you what you already know that you haven't bothered to do," he said, "or that you haven't had *the* money to do or that you haven't focused on." Finally, regarding a quote by Mr. Jason on page 10, paragraph 3, sentence 3, he recommended that the words "we must" enclosed in brackets be inserted into a quotation by him so that the sentence would read, "But [*we must*] stop the polarization of this community."]

Ms. Sibley made a Motion to Approve as Written, duly seconded. The vote on her Motion went as follows:

AYES: C. Brown; M. Colaneri; M. Donaroma; J. Early; T. Israel;  
L. Jason, Jr.; M. Ottens-Sargent; L. Sibley; R. Toole;  
J. Vercruysse; R. Zeltzer; and T. Henson, Jr.

NAYS: None.

ABSTAINING: J. Best; M. Cini; J. Greene; and M. Lazerow.

Next, the Commission members addressed the **Meeting Minutes of August 19, 1999**. Mr. Early made a Motion to Approve as Written, duly seconded. Ms. Greene noted that throughout the discussion of the building permit cap, the term "hearings" should be substituted for "town meetings." Mr. Early pointed out that they were not, in fact, hearings, but public meetings. "Then let's call them that," said Ms. Greene. Those substitutions would be made on page 3, paragraph 4, sentence 1; page 6, paragraph 3, sentence 3; and page 19, paragraph 6, sentence 2.

The vote on the Meeting Minutes went as follows:

AYES: C. Brown; M. Colaneri; M. Donaroma; J. Early; J. Greene;  
L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley;  
R. Toole; J. Vercruysse; and R. Zeltzer.

NAYS: None.

ABSTAINING: J. Best; M. Cini; T. Israel; and T. Henson, Jr.

#### **Item #4: Reports [continued]**

Mr. Toole continued with the **Chairman's Report**, which he had begun earlier in the Meeting. He announced that the Continued Public Hearing for the Herring Creek Farm Trust proposal was set for Thursday, September 16, at 7:30 p.m. and not at 8:00 p.m., as had been indicated in a recent *Vineyard Gazette* advertisement. He also reminded the Commission members that this Hearing, as well as the Regular Meeting and the Planning

and Economic Development Committee meeting, would be at the Old Whaling Church in Edgartown.

Mr. Toole announced that the "Call For Action" petition that Ralph Graves had referred to in the Regular Meeting of August 19, 1999 had arrived at the Commission Offices that morning. It contained 56 pages of signers, he noted, and it was not a formal DCPC Nomination, as had been expected. There was a brief discussion of the nature and content of the petition.

Mr. Toole also announced that a site visit by water of Herring Creek Farm was scheduled for Tuesday, September 14, at 5:30 p.m. The Commission members had a number of questions about the site visit, which were answered by Commission Secretary Pia Webster, who had arranged it.

There was no formal **LUPC Report** because the committee had not met that week. Mr. Colaneri made reference to the earlier discussion during the Maciel Marine Concurrence Hearing about whether or not the Applicant should have come before the Land Use Planning Committee with his proposal before proceeding with the Concurrence Hearing. Mr. Colaneri made a Motion that Applicants should appear before LUPC before their Concurrence Hearing, duly seconded. The voice vote went as follows:

AYES: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma; J. Greene;  
T. Israel; L. Jason, Jr.; M. Lazerow; M. Ottens-Sargent; L. Sibley;  
R. Toole; J. Vercruysse; R. Zeltzer; and T. Henson, Jr.

NAYS: None.

ABSTAINING: J. Early.

Mr. Toole asked for the **DCPC Report**; there was none. He then asked what had happened to the Vineyard Haven Harbor DCPC. Ms. Webster noted that she had spoken the day before to Asa Jones of the Tisbury Selectmen's Office, who had informed her that the Nomination was on its way.

Ms. Greene delivered the **Aquinnah DCPC Exemption Committee (ADEC) Report**. The group had met on Tuesday evening, September 7, with one Application before them, regarding a property with a well and septic already in place. The committee had approved the Application, which was for a "very small house that can't possibly be seen from anywhere," said Ms. Greene. Mr. Colaneri had a question about the procedure followed by the committee, which Ms. Greene answered.

Ms. Cini provided the **Affordable Housing Subcommittee Report**. The subcommittee had met on Wednesday, September 1, with the attendance of Ms. Cini, Mr. Toole and Mr.

Jason of the Commission, as well as of about a dozen members of the public, including a large contingent from Grace Church. (Ms. Cini had recently attended an Outreach Committee meeting at the church.)

"I think we've sort of broken through ... the hoop with the paper curtain in it in terms of, we got a whole lot of model studies that will give us essentially the methodology for figuring out how to justify the policy we come up with," Ms. Cini said. She added that the subcommittee had done some comparative analysis of the pre-development assessed value of, for instance, the three largest Applicants that had come before the Commission recently, to figure out what 20 percent, 15 percent, and so forth of such a number might be. Mr. Jason, the Building Inspector for Edgartown and Chilmark, was assisting the subcommittee with those calculations.

In addition, the subcommittee now had in hand all the Cape Cod Commission Model Bylaws. That commission had written into its enabling legislation the power to do exactions, and Ms. Cini observed that it would be "comforting" if the Martha's Vineyard Commission had a similar provision. There had also been discussions regarding ways to fund affordable housing outside of the exaction policy. Finally, Ms. Cini noted that she needed \$15,000 to \$20,000 to hire someone to do a study, although the new policy would be formulated before the any study was done.

The next meeting of the Affordable Housing Subcommittee would be at 5:30 p.m. on Wednesday, September 22, at Commission Offices.

Mr. Colaneri asked Ms. Cini if the subcommittee had a time frame for the recommendations that would be formulated by them. Ms. Cini replied that MVC Staff member Christine Flynn had begun to redraft the affordable housing policy. "Maybe a month?" asked Mr. Colaneri. "Maybe," responded Ms. Cini.

There followed some discussion of some research that Commission member Benjamin Hall, Jr. was supposed to have completed, but had not. Ms. Cini commented that she was moving ahead and doing it herself. "I'm not waiting for anybody," she said.

Ms. Brown asked Ms. Cini to speak a bit about the Community Development Corporation (CDC). Ms. Cini had been offering that organization counsel to help "bring them up to speed." The idea was to use the CDC as the nonprofit legal vehicle for the dormitory housing project at the airport.

Mr. Early, the Chair of the Planning and Economic Development Committee, delivered the **PED Report**. He described what had transpired at the September meeting of the Dukes County Selectmen's Association, which had occurred the night before. Selectmen from each Town reported on the public meetings that had been held on the building permit cap DCPC proposal. "There was a general enthusiasm for the building permit cap and

decidedly less enthusiasm for a moratorium," he said. A decision had been made for the Towns to proceed independently.

Mr. Early also reported that earlier that evening [Thursday] the PED Committee had voted to accept a draft document that had been prepared by MVC Counsel Eric Wodlinger and Executive Director Charles Clifford. Mr. Early directed the members to look at that document. The Selectmen had also voted to attend the PED Committee meeting on September 16 to begin to develop guidelines for the building permit cap regulations. The Chairman then went over the General Guidelines referred to earlier, about which there was some discussion.

Mr. Early announced that the PED Committee would meet next on Thursday, September 16, at 6:00 p.m. at the Old Whaling Church.

More discussion ensued about why the Selectmen would be looking at a draft document if not all the Towns were signing on to the building permit cap DCPC. Mr. Early noted that the Towns could do such a DCPC individually.

Mr. Toole wondered what sense Mr. Early had of how the Selectmen felt about the cap. Mr. Early replied that there appeared to be "solid support" for the permit cap, if not for the moratorium.

Michele Lazerow provided the **Cell Tower Study Group Report**. She announced that the group would meet on Saturday, September 18, at 9:00 a.m. at the Commission Offices. "We have lots of exciting new information," she noted.

Mr. Donaroma had questions about the 911 facility going up on Peaked Hill in Chilmark. Mr. Early said that there had been a meeting at Chilmark Town Hall the week before, where the Coast Guard had made known their needs for a radio facility antenna that would cover the "shadow areas" in Chilmark and Aquinnah. Mr. Jason explained that there were conservation restrictions of the Peaked Hill property stipulating that no structures were to be built there. A brief discussion of this issue ensued.

**Items #6, Written Decision: Planet Vineyard Health and Fitness Club (DRI #501).**

*[Ms. Cini, Mr. Henson and Mr. Israel, who were ineligible to vote on the Planet Vineyard Written Decision, left the meeting at this point (9:12 p.m.) and did not return.]*

Ms. Greene made a Motion to Approve the Planet Vineyard Health and Fitness Club Written Decision, as Written, duly seconded. The Commission members read over the Written Decision and did not propose any amendments.



Mr. Toole conducted the roll call vote. There was a brief discussion in the middle of the vote. Ms. Lazerow was at first not certain if she was qualified to vote; she then realized that she wasn't. *[Ms. Lazerow had attended the Public Hearing for the DRI but had not been present for the Decision on August 26, 1999.]* The roll call vote went as follows:

AYES: J. Best; C. Brown; M. Colaneri; M. Donaroma; J. Early;  
J. Greene; L. Jason, Jr.; M. Ottens-Sargent; L. Sibley;  
R. Toole; J. Vercruysse; and R. Zeltzer.

NAYS: None.

ABSTAINING: None.

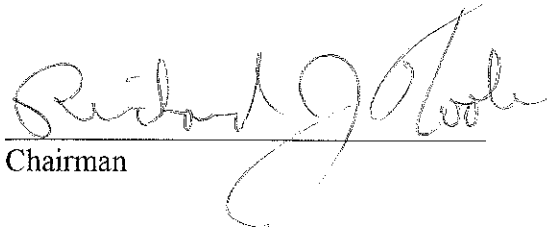
INELIGIBLE: M. Cini; T. Israel; M. Lazerow; and T. Henson, Jr.

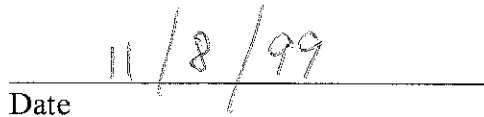
There followed a brief discussion of the tennis club facility at the airport and how it was advertising a new health club. Mr. Colaneri commented that he did not see any new trees on the site, as had been conditioned by the Commission. Mr. Jason noted that the proprietor still did not have an occupancy permit and that he could not use the facility as a health club yet.

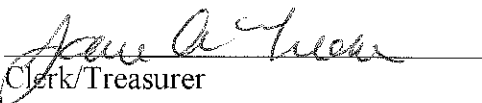
**Item #9, Correspondence: Letter from Elizabeth C. Campbell/Building Moratorium.**

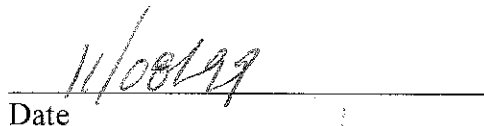
In response to Elizabeth C. Campbell's letter regarding the proposed Island-wide building moratorium, Ms. Greene suggested that Ms. Campbell come to one of the PED meetings. "Dear Ms. Campbell, Thank you for your input," suggested Ms. Sibley. The consensus among the Commission members seemed to be that there was no need to respond to the letter, and so no response was formulated.

Mr. Early made a Motion to Adjourn, duly seconded. The Meeting was adjourned at 9:16 p.m.

  
Chairman

  
Date

  
Clerk/Treasurer

  
Date

PRESENT: J. Best; C. Brown; M. Cini; M. Colaneri; M. Donaroma;  
J. Early; J. Greene; T. Israel; L. Jason, Jr.; M. Lazerow;  
M. Ottens-Sargent; L. Sibley; R. Toole; J. Vercruysse;  
R. Zeltzer; and T. Henson, Jr.

ABSENT: B. Hall, Jr.; M. Bolling; and A. Gallagher.

*Summary of Revisions to the  
Meeting Minutes of September 9, 1999  
Proposed by Commission Members  
in the Meeting of October 7, 1999*

[An excerpt from the Meeting Minutes of the Special Meeting of October 7, 1999 follows immediately. It describes the actions taken by the Commission with regard to the Minutes of September 9, 1999.]

There were no revisions proposed to the Special Meeting Minutes of September 9, 1999.